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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Note by the United Nations High Commissioner for Human Rights

The High Commissioner for Human Rights has the honour to transmit to the members of the Commission on Human Rights the report of the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme which took place in Geneva from 26 to 29 May 1998.

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REPORT OF THE MEETING OF SPECIAL RAPPORTEURS/REPRESENTATIVES, EXPERTS AND CHAIRPERSONS OF WORKING GROUPS OF THE SPECIAL PROCEDURES OF THE COMMISSION ON HUMAN RIGHTS AND OF THE ADVISORY SERVICES PROGRAMME

Geneva, 26 to 29 May 1998

Rapporteur: Mr. Maurice Copithorne

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Introduction

1. The meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures and the advisory services programme of the Commission on Human Rights was organized as a follow-up to the World Conference on Human Rights and to the previous four meetings which were held in 1994, 1995, 1996 and 1997. The Vienna Declaration and Programme of Action, in its section entitled "Implementation and monitoring methods", underlined "the importance of preserving and strengthening the system of special procedures" and specified that "the procedures and mechanisms should be enabled to harmonize and rationalize their work through periodic meetings" (Part II, para. 95).

2. Prior to the adoption of the Vienna Declaration and Programme of Action, an informal meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures was held at Geneva during the preparatory process leading to the World Conference on Human Rights. During the World Conference itself, a second informal meeting was held at Vienna, to which the special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures contributed a joint declaration (A/CONF.157/9).

3. The first meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the Commission on Human Rights following the World Conference on Human Rights was organized at Geneva from 30 May to 1 June 1994. Insofar as independent experts of the advisory services programme were viewed to be faced with very similar situations to those of the special procedures and that at least two of the former were charged explicitly with fact-finding tasks, these experts also participated in the meeting. The participants adopted a report containing a summary of their discussions and a list of their recommendations (E/CN.4/1995/5, annex).

4. The second meeting was organized at Geneva from 29 to 31 May 1995. At that meeting, the two independent experts appointed under the procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 were also invited to participate as their mandates were essentially the same as those of the independent experts of the special procedures, except that they reported confidentially to the Commission on Human Rights. The participants adopted a report containing a summary of their discussions and a list of their recommendations (E/CN.4/1996/50, annex).

5. The third meeting was organized at Geneva from 28 to 30 May 1996. At that meeting, the participants agreed that the officers of the meeting should remain in their functions until the election of the officers of the fourth meeting, and should be entrusted with monitoring the follow-up to the adopted recommendations, including their transmission to the High Commissioner for Human Rights. The participants adopted a report containing a summary of their discussions and a list of their recommendations (E/CN.4/1997/3, annex).

6. The fourth meeting was organized at Geneva from 20 to 23 May 1997. At that meeting, the participants began consideration of a draft manual for the special procedures system. The participants adopted a report containing a summary of their discussions and a list of their recommendations (E/CN.4/1998/45, annex).

7. The present meeting had before it annotations to the provisional agenda prepared by the Secretariat. It also had before it, prepared by the Secretariat or by participants, a draft manual for special rapporteurs/representatives, experts and chairmen of working groups of the Commission on Human Rights; a study of the High Commissioner for Human Rights on procedures for ensuring implementation of, and follow-up to participants' recommendations; a report of the Chairman of the fourth meeting of special rapporteurs/representatives, experts and working groups of the Commission on Human Rights; an information note by the administration of the Office of the High Commissioner for Human Rights on insurance policy for members of commissions, committees and similar bodies.

8. The list of participants at the fifth meeting is given in the appendix.

9. In the absence of a specific budgetary allocation providing for their attendance at the meeting, the independent experts were invited to combine their attendance with consultations at Geneva provided for in their respective mandates.

10. Following the example of the second, third and fourth meetings, the Chairman of the fifty-fourth session of the Commission on Human Rights, H.E. Ambassador Jacob S. Selebi (South Africa), was invited to participate in the deliberations on agenda item 5 (Cooperation with the Commission on Human Rights). Pursuant to a recommendation made by the High Commissioner for Human Rights at the second meeting, the Chairperson of the meeting of persons chairing the human rights treaty bodies, Mr. Peter Burns, Chairperson of the Committee against Torture, addressed the meeting.

I. ORGANIZATION OF WORK

A. Opening of the meeting

11. The meeting was opened by Mr. Paulo Sergio Pinheiro, Chairperson of the fourth meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the Commission on Human Rights and of the advisory services programme. He presented a report on the activities he had undertaken during the past year in his capacity as Chairman and announced the names of the special rapporteurs/representatives, experts and chairpersons of working groups of the Commission on Human Rights and of the advisory services programme who had stepped down as well as those who had replaced them.

B. Adoption of the agenda

12. The meeting adopted the following agenda:

Agenda

1. Opening of the meeting by Mr. Paulo Sergio Pinheiro, Chairman of the fourth meeting of special rapporteurs/representatives, experts and working groups of the Commission on Human Rights.

2. Election of the Chairperson and Rapporteur.

3. Adoption of the provisional agenda and organization of work.

4. Statement by Mr. Enrique ter Horst, Deputy High Commissioner for Human Rights.

5. Cooperation with the Commission on Human Rights.

6. Assessment of progress made in achieving the mandated objectives: independence, impartiality and coordination of the special procedures system.

7. Consideration of the revised manual for special rapporteurs/ representatives, experts and chairpersons of working groups of the Commission on Human Rights and the advisory services programme.

8. Coordination with the High Commissioner for Human Rights.

9. Coordination between the special procedures system and treaty bodies.

10. Coordination between the special procedures system and the United Nations or specialized agencies.

11. Cooperation with the Secretary-General, including coordination between the special procedures system and the Security Council and General Assembly, through the Secretary-General.

12. Fiftieth anniversary of the Universal Declaration of Human Rights.

13. Informal committee on administrative/budgetary issues.

14. Other matters.

C. Election of officers

13. Ms. Mona Rishmawi was elected Chairperson and Mr. Maurice Copithorne was elected Rapporteur of the fifth meeting.

D. Statement by the Deputy High Commissioner for Human Rights on behalf of the High Commissioner for Human Rights

14. The Deputy High Commissioner for Human Rights made a statement on behalf of the High Commissioner for Human Rights. He informed the participants that the Office of the United Nations High Commissioner for Human Rights (OHCHR) had recently signed a memorandum of understanding with the United Nations Development Programme, thereby strengthening cooperation between the two institutions. Owing to the fact that 40 per cent of UNDP's resources were allocated to Governance programmes, he noted the importance of avoiding duplication with UNDP programmes. In that regard, he mentioned that approximately 40 UNDP resident representatives visited Geneva annually and it was the intention of the High Commissioner to meet with as many of them as possible. The Deputy High Commissioner also informed the participants that OHCHR had begun negotiations with the United Nations Conference on Trade and Development in order to take advantage of its expertise in the area of the right to development. Further, he informed the participants that the indicators developed by the Department of Economic and Social Affairs of the Secretariat would be made more coherent so they could be applied by the system as a whole with the objective of establishing benchmarks to review the performance of countries.

15. With regard to field presences, the Deputy High Commissioner stated that OHCHR wanted projects to be taken on progressively by UNDP. Accordingly, studies were being done to establish exit strategies based on benchmarks primarily in institution-building. With regard to the restructuring of OHCHR, the nomination of geographic officers would help better organize the work of the Office, as those officers would be responsible for preparing internal country reviews. He also reported that the Office was creating a web of effective institutions at the regional level. At present, the Office had established strategic alliances outside of Geneva with institutions in Latin America and Africa.

16. The Deputy High Commissioner acknowledged that funding would continue to be an issue. He stated that the Office of the High Commissioner received only 1.8 per cent of the United Nations budget, with a similar amount received from extrabudgetary contributions. In an attempt to meet the financial needs of the Office, the High Commissioner was in the process of establishing an endowment fund contributions to which would be tax deductible for individual contributors from countries such as the United States and Canada.

17. He concluded by stating his and the High Commissioner's commitment to strengthening the special procedures system and protecting its independence and impartiality. In that regard, he said that he and the High Commissioner for Human Rights continued to monitor the defamation suits against the Special Rapporteur on the independence of judges and lawyers and were in consultation with the Office of Legal Affairs to ensure protection of his immunity.

18. The meeting expressed its appreciation to the Deputy High Commissioner for Human Rights for his comments.

II. COOPERATION WITH THE HIGH COMMISSIONER FOR HUMAN RIGHTS

19. The meeting had before it a study of the High Commissioner for Human Rights on procedures for ensuring implementation of, and follow-up to, participants' recommendations pursuant to a recommendation made at the third meeting and reiterated at the fourth meeting, which would be published as an addendum to the present report. The participants welcomed the study, expressing appreciation for the spirit of cooperation and coordination. The participants agreed that there must be a free flow of information between the experts of the special procedures system and the High Commissioner. In particular, several participants mentioned that it was important for the experts to be informed and consulted in advance of visits by the High Commissioner, and to be briefed upon her return. One participant suggested that there should be a systematic procedure by which each working group and the special rapporteurs were informed of pending visits by the High Commissioner during their meetings or consultations in Geneva. One participant noted that a visit by the High Commissioner to a country which was not cooperating with a country-specific rapporteur might undermine that rapporteur and, therefore, emphasized that such visits should only be made following consultations with the special rapporteur.

20. Some participants expressed concern over the proposal, in the Office of the High Commissioner's study, that the conclusions and recommendations contained in reports of experts be transmitted to the High Commissioner as soon as possible after the draft report was finalized. One participant expressed concern that this might create a hierarchical structure that would enable the High Commissioner to judge the conclusions and recommendations of the expert. Several participants stressed that experts are obliged to submit reports to the Commission on Human Rights and reports as specified in their mandate. There was a consensus that any follow-up to recommendations by the High Commissioner should only be done following consultation with the special rapporteur. An amended wording of the study was agreed upon. It was also suggested that the annual report of the High Commissioner to the Commission on Human Rights should include all follow-up activities of the High Commissioner and the response of the concerned Governments.

21. The participants welcomed the proposal to transmit the conclusions and recommendations of the experts to regional organizations. One participant noted that it was also important for special rapporteurs to receive information from the regional organizations, after the report is presented to the Commission on Human Rights. Similarly, the special rapporteurs should be kept informed of actions or decisions taken by other United Nations agencies or bodies that might be of interest to the special rapporteurs.

22. The Chief of the Research and Right to Development Branch briefed the participants on the arrangements under the new structure of the Office of the High Commissioner for Human Rights for the support of special rapporteurs and ad hoc working groups of the Commission on Human Rights. He first noted that the procedures were ad hoc, or special, i.e. each mandate had its own rationale within the resolution that established it. Each mandate was

therefore independent of the others. However, while being independent they shared a number of common, basic elements. The most fundamental of those elements was that they were all intended to strengthen the implementation, or the realization of the norms set out in the two International Covenants. In supporting those mandates, therefore, attention had to be paid to reconciling their common features with their intrinsic independence.

23. Under the new structure, that was to be achieved by drawing a distinction between the substantive support, i.e. the gathering and analysis of information with a view to establishing the mandates to which it was relevant, its degree of relevance and its urgency, and operational support, i.e. the further refinement of the information for a specific special procedure with a view to the follow up that the special rapporteur/working group might wish to give to it, including a determination as to whether such information might reveal a need for further, in situ information-gathering. According to the new structure, and the related job descriptions, the substantive support was to be provided by the Research and Right to Development Branch, and the operational support by the Activities and Programmes Branch.

24. Accordingly, the support of the special rapporteurs/working groups would require an approach in which each special rapporteur/working group should have its own work plan which in turn would be part of an agreement (e.g. in an aide-mémoire) containing the modus operandi desired by the special rapporteur/working group and, in particular, stipulate who is meant to provide what and when, so that the tasks and other duties required of the Secretariat, and those to be performed by the special rapporteurs/working groups, were clearly delineated. The Secretariat would thus be able to address questions relating to time limits and availability of reports, including translations, and to provide information that all rapporteurs/working groups could consult at any time. There would also be greater efficiency in the deployment of support staff, since their tasks would be limited to the preparation, planning and follow-up of operational activities, and there would be greater efficiency in the administrative/logistical support, since staff would be dedicated to those aspects in the operational phases.

Demonstration of Website

25. The meeting of the special rapporteurs saw a demonstration that the Secretariat had organized to introduce the Internet Website of the Office of the High Commissioner for Human Rights (www.unhchr.ch). Copies of the Website content were distributed at the detailed presentation, which was followed by a question-and-answer session. Many experts commended the effort and work of the Office in maintaining and improving the Website, which was acknowledged to be simple, user-friendly, well organized and a valuable information tool for experts, researchers and students. The requests from users to post the e-mail addresses of the Commission on Human Rights experts were brought to the attention of the participants. They were also informed of a suggestion that individual and joint urgent appeals should be posted in brief on the site. The meeting took note of the matter for further consideration.

III. ASSESSMENT OF PROGRESS MADE IN ACHIEVING THE MANDATED OBJECTIVES: INDEPENDENCE, IMPARTIALITY AND COORDINATION IN THE SPECIAL PROCEDURES SYSTEM

26. The meeting had before it a draft United Nations Code of Conduct for Officials other than Secretariat Officials and for Experts on Mission (A/52/488/Add.1). A working group was established to review the draft Code of Conduct and to identify issues of concern. There was a consensus among the participants that experts on mission for the United Nations should have been consulted in the drafting process. There was also a consensus that the draft raised issues of serious concern to the experts of the special procedures system. However, as the draft Code of Conduct was given to the Rapporteur only during the meeting and in English only, it was agreed that it would be inappropriate for the meeting to take a final decision. It was recommended that a letter should be transmitted to the Office of Legal Affairs acknowledging receipt of the draft, advising that it had been brought to the attention of the participants who wished to circulate it to all members of the special procedures mechanism, advising that comments would be forthcoming from the meeting after it had been so circulated, and requesting that consideration by the General Assembly be deferred until 1999. It was also recommended that the draft Code of Conduct should be brought to the attention of other experts on mission at the Office of the High Commissioner for Human Rights who might be covered by the Code, e.g. the members of the Sub-Commission and of treaty bodies. It was also decided that the concern of the participants should be conveyed in writing to the Office of Legal Affairs, through the High Commissioner for Human Rights.

27. The meeting also had before it a report on the case of the Special Rapporteur on the independence of judges and lawyers regarding recent developments in Malaysia (E/CN.4/1998/39/Add.5); it was briefed on the current status of the defamation suits filed against the Special Rapporteur, Mr. Param Cumaraswamy. The participants were informed that the Federal High Court had ruled that the Special Rapporteur did not have immunity because "he was neither a sovereign nor a diplomat." The meeting was also informed that the Secretary-General had appointed a Special Envoy to help resolve the dispute between the United Nations and the Government of Malaysia. The Special Envoy had met with the Deputy Prime Minister and the Minister for Foreign Affairs, but no settlement appeared to be imminent. In the meantime, all applications in the case had been postponed until September.

28. There was a consensus among the participants that it was intolerable for the Special Rapporteur to continue to be exposed to a possible judgement by a domestic court and that there must be an immediate resolution to the dispute. In that regard, several participants expressed the fear that if the decision issued by the Malaysian court was allowed to stand, it would establish a dangerous precedent that could be adopted by other domestic courts. It was agreed that a letter should be transmitted to the Secretary-General requesting that he immediately seek a settlement of the dispute by requesting the Economic and Social Council or the General Assembly to seek an Advisory Opinion from the International Court of Justice. Another participant suggested that a copy of the letter to the Secretary-General should be

transmitted to the High Commissioner, the Chairman of the Commission on Human Rights and the Chairman of ECOSOC and, further, that a press statement be issued on the matter*.

29. The participants also received a briefing on the case of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Mr. Roberto Garretón. The events that had transpired during the course of the past year concerning this case were reported. The Special Rapporteur had undertaken a short mission to eastern Zaire to investigate allegations of massacres by the rebels. In his report he concluded that the allegations were well founded and recommended a joint visit by himself, the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to investigate the alleged massacres further. However, the rebels refused to accept the Special Rapporteur on the Democratic Republic of the Congo. Prior to the submission of the joint mission's report to the General Assembly, the Secretary-General appointed his own team to investigate the alleged massacres.

30. The meeting resolved that this case highlighted the growing trend towards undermining the mandates of the experts of the special procedures system. The participants agreed that the meeting must emphasize the importance of protecting the integrity of the system by ensuring the independence and freedom of action of special rapporteurs. One participant noted that this case highlighted the need for more systematic follow-up by the Commission on Human Rights on non-cooperation by Member States. It was suggested that a working group be established to reflect on this issue and report to the sixth meeting. The Working Group recommended that a statement be issued expressing concern about this situation. An amended version of the statement was adopted by the participants.

IV. CONSIDERATION OF THE REVISED MANUAL FOR SPECIAL RAPPORTEURS/REPRESENTATIVES, EXPERTS AND CHAIRPERSONS OF WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS

31. The meeting had before it the revised draft manual for special rapporteurs/representatives, experts and chairpersons of working groups of the Commission on Human Rights and the advisory services programme. Although it had been decided last year that the manual should be given to the participants six weeks in advance, it was given to them the day the meeting started. As a result, several participants felt that they could not adequately discuss it at the present meeting.

32. Meanwhile, it was agreed that a working group composed of several participants would reconsider the draft manual before circulating the revised document among all experts for comments. All the comments received would be incorporated into the text by the Secretariat. The manual would then be adopted at the sixth meeting. In the meantime, the current version of the draft manual could be distributed to new special rapporteurs appointed by the Chairman of the Commission on Human Rights.

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* A United Nations press release (HR/98/37) headed "Meeting of human rights officials: harassment of special rapporteur by Malaysian courts is a challenge to the whole United Nations system" was issued on 9 June 1998.

V. COORDINATION BETWEEN THE SPECIAL PROCEDURES SYSTEM AND THE TREATY BODIES

33. The Chairman of the Committee against Torture, Mr. Peter Burns, addressed the meeting. He informed the participants that there had been a recent meeting between the Committee against Torture, the Board of Trustees for the Voluntary Fund for the Victims of Torture and the Special Rapporteur on torture, Mr. Nigel Rodley, demonstrating an effort to enhance coordination and cooperation among the various mechanisms.

34. The Chairman also briefed the participants on the work of the Committee against Torture. He explained that the Committee had three jurisdictions: (i) a reporting jurisdiction under article 19 of the Convention against Torture which required States parties to report once every four years to the Committee; (ii) article 20 jurisdiction which enabled the Committee to investigate a State where there was systematic torture, but only with the cooperation of the State; and (iii) article 22 jurisdiction which enabled the Committee to take up individual cases. With respect to its article 20 jurisdiction, the Committee had adopted the working methods of the special rapporteurs. The Chairman also informed the participants that the Committee had created three thematic rapporteurs on women, children and discrimination. The Chairman concluded by stating that there was a real need for organic cooperation. He noted that the Committee against Torture would be very interested in any reports, recommendations and conclusions the participants might have reached vis-à-vis a country being considered by the Committee. In response to a question from a participant on how the Committee received reports and information from special rapporteurs, the Chairman responded that the Committee had received this material in an inconsistent manner.

35. In the reporting process, there were clear entry points where information from the special procedures played a valuable role. Reports of special rapporteurs were systematically placed in the "country files" and reflected in the "country analyses". They thus contributed to the development of questions posed to government representatives, both in the list of questions and during the dialogue. As had been indicated, where the relationship between the mandates of a special rapporteur and a treaty body was clear, the reports of that special rapporteur were systematically included. Where there were mission reports of thematic rapporteurs or reports of a country rapporteur on a country that was scheduled to be examined by a treaty body, those reports were also systematically included. The reports of other special rapporteurs were reviewed and included if deemed relevant for the session.

36. Aside from having reports of the special rapporteurs available to them, treaty bodies had in recent years begun to develop other channels of close cooperation with the special rapporteurs whose mandates were closely related to their own. There was close coordination of activities and contributions to each other's work not only with respect to the reporting process but also to special mechanisms of the treaty bodies, such as the article 20 inquiry of the

Committee against Torture, and to the formulation of general comments. There were many instances of special rapporteurs participating directly in meetings of treaty bodies.

37. A new form of cooperation was the direct participation of some country rapporteurs in the pre-sessional working groups of the treaty bodies. This had begun on an experimental basis during the past year with one treaty body and several special rapporteurs. When it was not possible for a special rapporteur to attend personally, a member of the secretariat assisting him had been invited to brief the pre-sessional working group. While there were many factors influencing the possible institutionalization of attendance by special rapporteurs, the most important among them being resource constraints, it was agreed that this type of participation had been fruitful for both sides.

38. Another innovative form of cooperation was the one-time inclusion in the reports of some country rapporteurs of special sections dealing with specific treaty rights. The inclusion of a section on children's rights in a report of the special rapporteur on the Sudan and in that of the special rapporteur on the former Yugoslavia had provided powerful tools for those engaged in advocacy work for children's rights.

39. In the reports on their eighth and ninth meetings, the chairpersons had reiterated their strong interest in developing closer cooperation with the special rapporteurs. In recent years, the attendance of the Chairperson of that meeting at the meeting of special rapporteurs, and vice versa, had become standard practice. The chairpersons of the treaty bodies had proposed, in the report of their ninth meeting, that their meeting in 1999 be organized so as to coincide with the next meeting of special rapporteurs in May to enable all participants to benefit from this exchange. The secretariat was working to implement that recommendation.

40. Concern was expressed that special rapporteurs were notified of the countries scheduled to come before the treaty bodies, and treaty bodies informed of the mission schedules of the special rapporteurs, insufficiently in advance to allow full account to be taken of information available from each other. At present, such information was made available through press releases and through the United Nations human rights Website. It should be noted that, while coordination of this aspect of information exchange could be strengthened, it had improved considerably in recent years owing to the Website.

41. In addition, special rapporteurs expressed interest in the development of the new forms of cooperation described, particularly the direct participation of country rapporteurs in pre-sessional working groups of the treaty bodies. They expressed support for the idea of holding concurrent meetings with the chairpersons of treaty bodies next year.

42. The participants recommended that all reports of the mechanisms of the special procedures system be brought to the attention of the treaty bodies, particularly in the case of country-specific rapporteurs.

VI. COOPERATION WITH THE SECRETARY-GENERAL, INCLUDING COORDINATION BETWEEN THE SPECIAL PROCEDURES SYSTEM AND THE SECURITY COUNCIL AND THE GENERAL ASSEMBLY, THROUGH THE SECRETARY-GENERAL

43. Under this item, a discussion was held on cooperation with the Secretary-General, including coordination between the special procedures system and the Security Council and the General Assembly, through the Secretary-General. The participants reviewed a list of human rights mandates assigned to the Secretary-General and noted areas of overlap with aspects of some of their own mandates. It was recalled that there was already some communication of information between the special mechanisms, the Secretary-General and the main United Nations organs in New York, including through the formal transmission of reports to the General Assembly and the Security Council.

44. Participants noted the need, however, for better communication between the human rights mechanisms and the political departments in New York. The recent recommendation of the High Commissioner, that information obtained by the mechanisms should be utilized as part of the United Nations "early-warning" system for potential conflicts, was favourably received. The need was discussed for more routine sharing of information between the human rights mechanisms and pertinent desks of the Departments of Political Affairs and of Peacekeeping Operations in New York. There was also reference to the desirability of a formal understanding for cooperation between the mechanisms and United Nations field operations, including peacekeeping operations, in the field of human rights.

VII. FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

45. A view was expressed that all the experts of the special procedures system should participate in the ceremony in New York commemorating the fiftieth anniversary of the Universal Declaration of Human Rights. Participants agreed that the chairperson of the meeting will represent them during the celebrations. A statement, to be read by the Chairperson, would be prepared for the occasion. This would be distributed to participants for comments before becoming final. It was also suggested that the participants should consider preparing a small collection of essays that could be published in a booklet. A working group composed of four members of the meeting was appointed to explore the possibility.

VIII. INFORMAL COMMITTEE ON ADMINISTRATIVE/BUDGETARY ISSUES

46. Pursuant to a suggestion by participants at the fourth meeting, it was agreed that an informal committee should meet prior to the fifth meeting to discuss administrative issues of concern to the experts of the special procedures system. The committee met on 26 May 1998 and focused on four issues: (a) insurance for special rapporteurs while on mission; (b) the budget for the special procedures mechanisms; (c) staff support for special rapporteurs; and (d) the question of laissez-passer being issued to special rapporteurs. The discussions are summarized in the following paragraphs.

47. Concerning insurance, the United Nations provided insurance coverage for special rapporteurs, at no cost to them, in the event of death, injury or illness attributable to service with the United Nations; special rapporteurs were also covered by the Malicious Acts Insurance Policy contracted by the United Nations which covered death and/or disability caused by a limited number of situations (e.g. war, hostilities, sabotage, murder, assault, etc.) and in specific geographical areas designated by the United Nations Security Coordinator. It did not cover non-service-related death, injury or illness or that which occurred outside the Malicious Acts Policy. In order to fill the gap, it was possible to contract out for a private group insurance policy that would provide comprehensive worldwide medical and death insurance, whatever the circumstances. The cost of this insurance would be deducted from the daily subsistence allowance (DSA). Such a contract would require a decision by the group, but individuals could opt out if they so chose.

48. The view was expressed that, in view of the fact that special rapporteurs served on a voluntary basis, the United Nations should contract out for private insurance which covered all risks, and the costs should be absorbed by the Organization.

49. Concerning the budget, it was explained to the informal committee that the current account structure of OHCHR mirrored the organizational structure. Thus, the budget for the special procedures system was based upon funds allocated under ECOSOC mandates. In order to distribute those funds in an equitable manner among the various mandates, it would be beneficial for the special rapporteurs to develop annual work plans and quarterly travel plans.

50. The difficulties inherent in such plans were discussed. Several participants noted that there must be utmost flexibility, in large part owing to the difficulties of obtaining authorization from States to undertake a visit. However, with regard to meetings in Geneva, it was generally agreed that travel plans could be set well in advance. A plan of activities could be established in consultations between the special rapporteur and the staff member servicing the mandate.

51. Problems with respect to the DSA, exchange rate controls, and the issuance of DSA in the form of travellers cheques were discussed. The method of calculation of the DSA was explained, and solutions to the problems raised were proposed.

52. Concerning staff support, several participants at the informal meeting expressed concern about the question of job insecurity at OHCHR and how it impacted their work.

53. Because of budget constraints, OHCHR had been appropriated $900,000 out of a requested $1.3 million for staff. Accordingly, it was impossible to assign one staff member per mandate. Many staff members therefore remained on temporary assistance. However, with regard to new mandates, the High Commissioner was in favour of apprising Member States of the anticipated costs. If the necessary resources were not allocated, the High Commissioner would tell the legislative organs that it would be impossible to carry out the mandate.

54. One participant noted that the administration should not only focus on new mandates, but should also think of the pressures on staff servicing old mandates. The efficiency of the special rapporteurs depended on the efficiency of the staff. There should be an analysis of the inputs required for the different mandates and the distribution of staff should be made on the basis of that analysis.

55. The Office of the High Commissioner had expressed concern with respect to a tendency on the part of some States to fund particular mandates, thereby creating a risk of having "rich" mandates and "poor" mandates. It had been suggested that a fund should be established for all mandates, allowing for more equitable distribution.

56. With regard to the question of laissez-passer being issued to special rapporteurs, it was explained that in principle only staff members of the Organization were entitled to receive laissez-passer; one participant observed that at least two specialized agencies had occasionally issued a laissez-passer to non-staff members. Another participant explained that special rapporteurs from developing countries had experienced serious difficulties and had to face unacceptable situations when travelling on mission because they required visas for every country, frequently even for transit. The failure to issue laissez-passer therefore amounted to discrimination against those special rapporteurs. Participants agreed that an urgent solution to this problem was required.

57. There was a consensus among the participants that the informal meeting should request the Secretary-General to issue laissez-passer to special rapporteurs.

58. With regard to the relationship between the special rapporteurs and the administration, the participants at the fifth meeting agreed to discuss the matter with the High Commissioner and to constitute a working group to draft a letter to the relevant authority reflecting the position of the participants towards the proposal made by the Chief of administration to contract for a private group insurance policy that would provide comprehensive worldwide medical and death insurance, whatever the circumstances. On the issue of travel documents, the participants expressed their considerable concern at the indignities that had been faced by some of them in the recent past, and decided to draw the attention of the highest United Nations authorities to the need for a resolution. Participants suggested that the Chairperson of the fifth meeting should follow up on the written communication when meeting with the Secretary-General in New York.

IX. COOPERATION WITH THE COMMISSION ON HUMAN RIGHTS

A. Exchange of views with the Bureau of the Commission on Human Rights and representatives of regional groups

59. At the request of the Bureau of the Commission on Human Rights, the participants met with members of the Bureau to exchange views on the review of mechanisms of the Commission during the inter-sessional period. Representatives of the regional groups were also invited to participate in this dialogue. There was a consensus among the participants that the meeting

was a highly useful exercise and they expressed the hope that there would be a continuing dialogue between the Bureau and the special rapporteurs. Further, the participants recommended that such an exchange of views become a common feature of their annual meeting.

60. The meeting was opened by the Vice-Chairman of the Commission, H.E. Ambassador Iftekhar Ahmed Chowdhury, on behalf of the Chairman, H.E. Ambassador Jacob Selebi, who highlighted some of the events of the fifty-fourth session, including the adoption of the draft declaration on human rights defenders and the greater emphasis given to social, economic and cultural rights, and the fact that 75 per cent of the 84 resolutions adopted were by consensus. He noted that the special rapporteurs held the good offices mandate of the Commission, and stated that the Bureau looked forward to working closely with them to ensure that the efforts of the review process would have positive ramifications for the promotion of human rights. He expressed concern about the timely submission of reports, noting that reports must be circulated six weeks prior to session to enable member States to review them so that they were able to prepare a response, and that four weeks were nominally required for editing, translation and distribution. One possible solution to this problem would be the establishment of interim reports.

61. The Chairperson of the meeting indicated that there were four primary issues of concern for the special rapporteurs. First was the issue of cooperation with Member States, including the question of follow-up of recommendations of the special rapporteurs. Second was the issue of immunity for the special rapporteurs. Third was administrative issues, in particular the question of sufficient staff support, and the delay in issuing reports to be considered by the Commission. Finally, there was the issue of coordination and consultation with the High Commissioner.

62. At the request of the Chair, the Rapporteur of the meeting then set forth clusters of issues that the special rapporteurs felt should be the subject of discussion for the meeting with the Bureau: (i) the position of special rapporteurs, i.e. concern for the integrity and independence of the institution, citing the cases of the Special Rapporteurs on the independence of judges and lawyers, on the Democratic Republic of the Congo and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance as examples of threats to integrity and independence; (ii) follow-up to recommendations; (iii) organic relationships; (iv) the draft United Nations Code of Conduct; (v) administrative/secretarial support; (vi) standardization, biannualization and improvement of the overall quality of reports; (vii) tension and cooperation between monitoring and technical cooperation; and (viii) how to implement the new emphasis on gender and economic, social and cultural rights.

63. The meeting was then briefed by Mr. Jack Christafides of the Permanent Mission of South Africa on the evolution of thinking on how the review should be undertaken. He indicated that the scope of the review included all mechanisms of the Commission, that is, the special rapporteurs, working groups, the 1503 procedure and the Sub-Commission. He emphasized that there were two essential points: (i) the purpose was the effective promotion of the mechanisms of the Commission; and (ii) the process would be characterized by

transparency and cooperation. It had also been agreed by the Bureau that the review should be completed by mid-December. The inter-sessional period would be divided into two time-periods: (i) an information-gathering period; and (ii) the drafting period. The information-gathering period would begin with a letter to all States, mechanisms of the Commission and non-governmental organizations asking how the mechanisms could be enhanced. The comments received in response to this letter would be published in July. Beginning in September the Bureau would begin drafting the report but, Mr. Christafides emphasized, there would be continued consultations during this period.

64. H.E. Ambassador Chaing then conveyed a message on behalf of the Asian Group. He expressed respect and gratitude for the work of special rapporteurs to promote and protect human rights, noting that they acted on the basis of independence and impartiality. He stated the view that more attention should be paid to the particularities of a country and that greater emphasis should be placed on economic, social and cultural rights. In the view of the Asian Group, the work of the special rapporteurs should not be hampered by political bias. He also indicated that thematic rapporteurs were not only meant to monitor, but also to promote human rights. Further, they should concentrate on trends rather than isolated events. He concluded by expressing concern over the late submission of reports and stated that the resolution of this problem should be a priority.

65. H.E. Ambassador Gallegos, Vice-Chairman of the Commission, expressed concern about the proliferation of special rapporteurs and how that affected the efficiency of the mandates. He reiterated the view expressed by the other members of the Bureau that the recommendations of the review must make the machinery sounder and more effective.

66. H.E. Ambassador Höynck, on behalf of the Western European and Others Group, stated that the Commission was not fully using the potential of the special rapporteurs and not honouring the amount of work that had been put into their reports. He concluded by expressing the view that a key issue was how to strengthen the relationship between the Commission and the special rapporteurs.

67. H.E. Ambassador Diallo indicated that the Bureau was present to gain inspiration from the experience of the special rapporteurs, thereby enabling it to improve the work of the special rapporteurs. She asked how in practice special rapporteurs put into effect the principles of interdependence and indivisibility of rights. She concluded by stating that the rapporteurs were the eyes and ears of the Commission and that their reports should reflect the reality they saw and heard in the field.

68. The special rapporteurs expressed the view that there were three fundamental issues: (i) improving cooperation with Member States; (ii) the follow-up to this cooperation; and (iii) improved support from the Secretariat at all levels. With respect to cooperation with Member States, enhanced cooperation would require developing a relationship of trust. Several special rapporteurs expressed the view that there was a serious lack of cooperation on the part of Member States to the extent that many did not allow special rapporteurs to undertake missions to their countries. A special rapporteur commented that the special rapporteurs wanted to understand the

particularities of the countries, but they could not do so if the countries concerned did not allow them to enter. Several special rapporteurs also indicated that there must be enhanced dialogue between the special rapporteurs and Member States during the inter-sessional period, one member suggesting that there should be regular meetings throughout the year between special rapporteurs, both individually and collectively, and the regional groups. Others stated that there should be further meetings throughout the year with the Bureau of the Commission concerning the review process.

69. With respect to follow-up, the special rapporteurs emphasized that a visit to the country was only the beginning of the process; if there was to be no follow-up, there was no reason for a visit. Others noted the importance of the Commission itself following up not only the recommendations of the special rapporteurs, but also its own recommendations set forth in resolutions. In that regard, the Commission should evaluate its own recommendations to determine how effectively they had been implemented by the States concerned.

70. Concerning the issue of support, there was unanimous agreement among the special rapporteurs that the efficiency of the special rapporteurs was dependent on the efficiency of the staff. In that regard, there were simply insufficient financial and human resources provided to the mandates. One special rapporteur noted that there was a contradiction between the commitments undertaken at Vienna and the means provided to promote and protect human rights.

71. With regard to the issue of the timely submission of reports, the participants shared the concern of Member States. They noted that in many cases they had in fact complied with the deadlines, yet the reports were published only on the day that they were to be presented. That hampered their work and was unfair to Member States.

B. Exchange of views with non-governmental organizations

72. The participants met with representatives of NGOs to exchange views on the mechanisms of the Commission. Representatives of Amnesty International, the Association for the Prevention of Torture, the Baha'i International Community, the International Federation of Human Rights Leagues and the Inter-Parliamentary Union stressed the importance of the special procedures mechanisms for the protection of human rights and shared some of their recommendations in order to strengthen this particular mechanism of the Commission. Most of the NGO representatives raised specific points relating to the protection of human rights defenders, the independence and impartiality of the special procedures system, the follow-up to the recommendations of the special rapporteurs, the timely submission of reports and the support offered to the special rapporteurs, as well as the restructuring of OHCHR. An IPU representative described how his organization, which was composed of parliamentarians from more than 130 countries, could assist the work of the participants, in particular when parliamentarians were the subject of human rights violations, in which case "executive reports" were made available to the relevant rapporteurs, and when IPU undertook technical cooperation programmes to strengthen parliamentary institutions in a country for which a special rapporteur already held a mandate.

73. It was suggested, inter alia, that the High Commissioner issue an annual report consisting of a compilation of the conclusions and recommendations of the country and thematic rapporteurs. It was also suggested that special rapporteurs' reports include a distinct chapter on violations perpetrated against human rights defenders. The NGO representatives also suggested that the High Commissioner play an active role in the follow-up to the recommendations of the special rapporteurs. With respect to the independence and impartiality of the special rapporteurs, the NGOs also stressed the importance of the "Terms of reference for fact-finding missions".

74. All participants stated that the opportunity to exchange views with NGOs was very important and rewarding. They stressed the importance of the role of the NGOs in the creation, as well as for the fulfilment of their mandates. Several participants mentioned the importance of the role of parliamentarians in the drafting of national legislation and mentioned that, when on mission, they always sought meetings with them.

75. Participants agreed to include on the agenda for next year a meeting with the Bureau of the Commission as well as with NGOs.

X. DECISIONS AND FOLLOW-UP ACTIVITIES

76. The fifth meeting decided to take the following actions:

(a) The draft Code of Conduct for Officials other than Secretariat Officials and Experts on Mission should be circulated to all special rapporteurs, 1/ for their comments. In the meantime, a letter should be sent to the Legal Counsel of the United Nations acknowledging receipt of the draft, asking for more details, stating that the special rapporteurs wished to give it careful consideration, and requesting the deferral of any action until the fifty-fourth session of the General Assembly in 1999;

(b) The draft manual for special rapporteurs should be reissued, incorporating a number of changes submitted by participants. The revised draft should be made available to all special rapporteurs including newly appointed special rapporteurs. Final approval should be given at the sixth meeting of special rapporteurs;

(c) The matter of insurance covering special rapporteurs while they are on mission and the matter of appropriate travel documents for special rapporteurs should be brought to the attention of the Secretary-General with a request that he address these problems urgently and direct that a solution be found;

(d) The Secretary-General should be informed of the deep concern of the special rapporteurs that a settlement in the matter of the ongoing case of the Special Rapporteur on the independence of judges and lawyers before the courts of Malaysia be reached expeditiously. The Secretary-General should

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1/ The term "special rapporteur" is used here generically to include special representatives, experts and chairpersons of the working groups of the Commission on Human Rights.

immediately refer the matter to the International Court of Justice. The participants agreed to issue a statement expressing their concern, which was to be transmitted to the Secretary-General by the Chairperson of the meeting;

(e) The Secretary-General should be informed of the deep concern of the special rapporteurs at the course of events in the matter of the position of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, and the reported efforts to seek his removal from this mandate;

(f) Every effort should be made to establish effective contacts between the special rapporteurs and the United Nations organs and bodies that meet in New York, including the Security Council;

(g) The Chairperson should represent the special rapporteurs at the special events of the General Assembly in December 1998 marking the fiftieth anniversary of the Universal Declaration of Human Rights, and the Chair should prepare a statement, the draft of which is to be circulated to all special rapporteurs for their comments;

(h) The sixth meeting of the special rapporteurs would be held in Geneva in the week of 31 May to 3 June 1999;

(i) The High Commissioner should issue the present report not later than 90 days from the conclusion of the meeting, and all special rapporteurs with e-mail should be advised of its posting on the Website;

(j) The High Commissioner should ensure that the formal letter of invitation for the sixth meeting is issued not less than 90 days prior to the meeting;

(k) The High Commissioner should ensure that all documentation for the sixth meeting is distributed not less than four weeks prior to the meeting;

(l) The High Commissioner should ensure the implementation of paragraph 10 (a) of Commission on Human Rights resolution 1998/74 concerning the issuance of a single document containing the conclusions and recommendations of the special rapporteurs.

Appendix

LIST OF PARTICIPANTS AT THE FIFTH MEETING

Mr. Abdelfattah Amor	Special Rapporteur on the elimination of all forms of religious intolerance and of discrimination based on religion or belief
Ms. Emna Aouij	Independent Expert on the situation of human rights in Chad
Mr. Alegjandro Artucio	Special Rapporteur on the situation of human rights in Equatorial Guinea
Mr. Enrique Bernales Ballesteros	Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination
Ms. Ofelia Calcetas-Santos	Special Rapporteur on the sale of children, child prostitution and child pornography
Ms. Radhika Coomaraswamy	Special Rapporteur on violence against women, its causes and consequences
Mr. Maurice Copithorne	Special Representative on the situation of human rights in the Islamic Republic of Iran
Mr. Param Cumaraswamy	Special Rapporteur on the independence of judges and lawyers
Mr. Adama Dieng	Independent Expert on the situation of human rights in Haiti
Mr. J. Dienstbier	Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, The Republic of Croatia and the Federal Republic of Yugoslavia
Mr. Roberto Garretón	Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo
Mr. Maurice Glèlè-Ahanhanzo	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
Mr. Hannu Halinen	Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Mr. Abid Hussain	Special Rapporteur on freedom of opinion and expression
Ms. Fatma Zohra Ksentini	Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
Mr. Michel Moussalli	Special Representative on the situation of human rights in Rwanda
Mr. Bacre Waly Ndiaye	Special Rapporteur on extrajudicial, summary or arbitrary executions
Mr. Choong-Hyun Paik	Special Rapporteur on the situation of human rights in Afghanistan
Mr. Paulo Sergio Pinheiro	Special Rapporteur on the situation of human rights in Burundi
Ms. Mona Rishmawi	Independent Expert on the situation of human rights in Somalia
Mr. Nigel S. Rodley	Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment
Mr. Kapil Sibal	Chairman of the Working Group on Arbitrary Detention
Mr. Soli J. Sorabjee	Special Rapporteur on the situation of human rights in Nigeria
Mr. Ivan Tosevski	Chairman of the Working Group on Enforced or Involuntary Disappearances

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